

## Minutes

### Jefferson County Board of Zoning Appeals

- 1 Meeting Date: May 26, 2022
- 2 Meeting Location: By order of the Chair, the Board of Zoning Appeals meeting was held  
3 in-person in the Charles Town Library Conference Room; and virtually  
4 via ZOOM.
- 5 Board Members Present: Tyler Quynn, Chair; Deirdre Catterton, Vice Chair; Matthew McKinney,  
6 and Leeds Corbin were all present in-person. Mikala Shremshock,  
7 alternate member was present via ZOOM.
- 8 Board Members Absent: Steve Guier with notification
- 9 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Mason Carter, Ordinance  
10 Compliance Officer; Stephen Groh, Assistant Prosecuting Attorney;  
11 and Jennilee Hartman, Zoning Clerk
- 12 All requests were pursuant to the Jefferson County Zoning and Land Development Ordinance.
- 13 Ms. Catterton moved to call the meeting to order at 2:00 pm. Mr. Quynn called for a vote, which  
14 carried unanimously.
- 15 Ms. Catterton reviewed meeting protocol for those in attendance. Ms. Beaulieu swore in members of  
16 the public who indicated they would be providing testimony.
- 17 **Approval of Minutes: April 28, 2022**
- 18 Mr. McKinney moved to approve the minutes. Mr. Quynn called for a vote, which carried  
19 unanimously.
- 20 **AGENDA ITEM #1 FILE #: 22-13-ZV (CONTINUED FROM THE APRIL 28, 2022 MEETING)**
- 21 Request: Variance from Section 9.7 to reduce the side setback along the southern property line  
22 from 15' to 3' for a 12' long deck; and to reduce the side setback along the northern  
23 property line from 15' to 6-inches for a 12' long deck with 8' long stairs.
- 24 Owner: Potomac Cottage / Robert Starkey
- 25 Parcel Info: 1523 Knott Road, Shepherdstown, WV  
26 Parcel ID: 09011A00360000; Size: 2.3 ac; Zoning District: Rural
- 27 Mr. Quynn requested a deliberative session.
- 28 Ms. Catterton moved to go into deliberative session at 2:04 pm. Mr. Quynn called for a vote, which  
29 carried unanimously.
- 30 Mr. McKinney moved to come out of deliberative session at 2:24 pm. Mr. Quynn called for a vote,  
31 which carried unanimously.
- 32 Mr. Quynn noted that this item was continued from the April 28, 2022 meeting for the purpose of  
33 allowing Mason Carter, the Ordinance Compliance Officer, to take additional site photos and to  
34 obtain new information relevant to the request.
- 35 Ms. Beaulieu provided an overview of the parcel's history, the applicant's request, and referenced  
36 the new site photos that had been included in the packet from a site visit that was conducted on  
37 May 3, 2022.
- 38 Mr. Quynn stated that testimony provided by the applicant and the public would be limited to new  
39 information only and each speaker would be limited to three minutes.

1 Mr. David Casto, attorney for the adjacent neighbor (Ms. Amy Bowman), spoke in opposition to  
2 the request. Mr. Casto argued that the application did not meet the four criteria required by West  
3 Virginia State Code.

4 Julie and Robert Starkey, applicants, provided a rebuttal to the opposition. Ms. Starkey explained  
5 that in 2019, the previous property owners had constructed wooden stairs over the existing concrete  
6 stairs as the concrete stairs had become hazardous. Ms. Starkey clarified that the wooden steps were  
7 6" from the Bowman residence. Ms. Starkey stated that they replaced the older deck and the  
8 wooden stairs with the new composite deck and stairs and stated that the new stairs were not any  
9 closer to the Bowman residence than the wooden stairs that were constructed in 2019 had been.

10 Mr. McKinney moved to approve the variance to reduce the side setback along the southern  
11 property line from 15' to 3' for a 12' long deck; and to deny the variance to reduce the side setback  
12 along the northern property line from 15' to 6-inches for a 12' long deck with 8' long stairs.

13 Mr. McKinney noted that denial of the request is based on the fact that the request would adversely  
14 affect the health, safety, and welfare or property rights of the adjacent property owner and that the  
15 request did arise from special conditions or attributes created by the applicant.

16 Ms. Catterton requested an amendment to the motion that the applicant be bound by their  
17 testimony. Mr. Quynn also requested an amendment to the motion noting that the southern side  
18 setback was not increasing the nonconformity of the property based on the location of the existing  
19 home. Mr. McKinney accepted the amendments. Mr. Quynn confirmed that Ms. Shremshock had  
20 reviewed the previous record from the April 28, 2022 meeting. Mr. Quynn called for a vote, which  
21 carried four (4) in support and one (1) in opposition to the motion (Mr. Corbin).

22 **AGENDA ITEM #2 FILE #: 22-17-ZV**

23 Request: Variance from Section 5.4B of the Zoning Ordinance, as amended on 11/07/02, to  
24 reduce the rear setback from 20' to 9' for a 10' x 10' deck expansion.

25 Owner: Ian Gibson-Smith

26 Parcel Info: Deerfield Village, Lot 3, 44 Blossom View Ct., Shepherdstown, WV

27 Parcel ID: 09014B00030000; Size: .26 ac; Zoning District: Rural

28 Ms. Tuvonya Carey, representative for the property owner, was present to address the Board.

29 Ms. Beaulieu provided an overview of her staff report noting that subject property backed up to a  
30 platted utility easement and open space area. Ms. Carey explained the nature of the request to the  
31 Board noting that the property owner wished to enlarge the existing deck to make it more  
32 functional. Ms. Carey also explained that the property owner had discussed the deck with the  
33 adjoining neighbors and that they did not object to the request. Ms. Carey confirmed that she did  
34 not have letters of support and pointed out that no one had submitted a letter in opposition.

35 Ms. Catterton moved to approve the variance as presented. Mr. Quynn called for a vote, which  
36 carried unanimously.

37 **AGENDA ITEM #3 FILE #: 22-18-ZV**

38 Request: Variance from Section 9.7 to reduce the 6' side and rear setbacks down to 4' for a 40' x  
39 24' detached garage with an attached 16' x 8' lean to.

40 Owner: Sharon Tennant

41 Parcel Info: Mecklenburg Heights, Lot 72, 323 Woodcock Ave., Shepherdstown, WV

42 Parcel ID: 09007C00070000; Size: .48 ac; Zoning District: Residential Growth

1 Ms. Sharon Tennant, property owner, and Mr. Daniel DeHaven, contractor for the property owner,  
2 were present to address the Board. Ms. Beaulieu provided an overview of her staff report.  
3 Ms. Beaulieu noted that the subject building appears to meet the six foot setback and that the  
4 purpose of the variance is to afford the applicant some flexibility during construction. Ms. Tennant  
5 and Mr. DeHaven explained the nature of the request to the Board noting that the proposed  
6 structure will replace an existing shed. Ms. Beaulieu noted that the applicant had provided a letter  
7 of support from the adjacent property owners [Jerri Burgess, Gary Thomas, and Scott Lowe].  
8 Ms. Tennant confirmed that the garage would be used for personal storage.

9 Mr. Corbin moved to approve the variance with the following conditions:

10 1. That the applicant be bound by their testimony.

11 Mr. Quynn confirmed that there were no members of the public present to provide testimony.

12 Mr. Quynn called for a vote, which carried unanimously.

13 **AGENDA ITEM #4 FILE #: 22-19-ZV**

14 Request: Variance from Section 10.7E.1 to waive the requirement of submitting written  
15 certification from the sign manufacturer verifying that the light intensity has been  
16 factory preset not to exceed the levels specified by the Zoning Ordinance, and that  
17 the intensity level is protected from end-user manipulation by password protected  
18 software or other appropriate methods for a proposed Electronic Sign. The applicant  
19 has represented that the sign will comply with the required brightness levels but that  
20 the sign manufacturer has been unable to provide the required certification.

21 Owner: Charles Town Lodge No. 948 Loyal Order of Moose, Inc.

22 Applicant: Chad Bryan, Trustee

23 Parcel Info: 77 16th Ave, Ranson, WV; Parcel IDs: 02000700110005, 02000700110012,  
24 02000700110013; Combined Acreage: ~ 12 acres; Zoning District: Industrial Commercial

25 Mr. Chad Bryan, trustee for the Moose Lodge, was present to address the Board. Ms. Beaulieu  
26 provided an overview of her staff report. Ms. Beaulieu explained that the proposed electronic sign  
27 is permitted in the proposed location. Ms. Beaulieu stated that the applicant represented that the  
28 proposed sign would adhere to the requirements of the Ordinance. Mr. Bryan explained the nature  
29 of the request to the Board stating that the sign company had been unwilling to provide the required  
30 written certification. Mr. Bryan confirmed that the sign would follow all the requirements of the  
31 Zoning Ordinance and added that he would be willing to provide a notarized document to that  
32 effect. Referring to the last paragraph in Section 10.7, Mr. McKinney expressed his concern that the  
33 proposed sign did not appear to have FCC approval. Ms. Beaulieu stated that she believed the FCC  
34 approval was a general industry standard for electronic signs.

35 Mr. Quynn confirmed that there were no members of the public present to provide testimony.

36 Ms. Catterton moved to approve the variance with the following conditions:

37 1. That the applicant be bound by their testimony, specifically that they will comply with the  
38 sign criteria noted in the Zoning Ordinance.

39 Mr. Quynn called for a vote, which carried four (4) in support and one (1) in opposition to the motion  
40 (Mr. McKinney).

1 **AGENDA ITEM #5 FILE #: 22-20-ZV**

2 Request: Variance from Section 9.7 to reduce side setback from 15' to 1' along a platted 25'  
3 wide access easement for a 30' x 30' accessory structure (detached garage).

4 Owner: Daniel Derito

5 Parcel Info: 105 Burch Meadow Ln, Kearneysville, WV 25430

6 Parcel ID: 07002700040003; Size: 7.62 ac; Zoning District: Rural

7 Mr. Daniel Derito, property owner, was present to address the Board. Ms. Beaulieu provided an  
8 overview of her staff report noting that the applicant had provided a letter of support from the  
9 adjacent property owner (Jack Burch). Mr. Derito explained the nature of the request to the Board  
10 noting that the proposed location was optimal due to existing rock outcroppings and the location of  
11 existing overhead power lines. Mr. Derito added that based on the topography of the property that  
12 he would prefer to build the structure within visual range of the home.

13 Mr. Quynn confirmed that there were no members of the public present to provide testimony.

14 Mr. McKinney moved to approve the variance with the following conditions:

15 1. That the applicant be bound by their testimony.

16 Mr. Quynn called for a vote, which carried unanimously.

17 **Zoning Administrator's Report**

18 a. Monthly Zoning Certificate Activity Report. The Report was included in the mailed packet.

19 Ms. Beaulieu provided the Board an update on the proposed text amendment regarding Solar Energy  
20 Facilities (ZTA22-01). Ms. Beaulieu noted that the next meeting was scheduled for June 23, 2022.

21 **Legal Update**

22 a) Discussion of the following pending lawsuit: None.

23 b) Discussion with possible deliberative session and signing of draft Findings/Decisions.

24 **Meeting: April 28, 2022**

25 1. Variance from Sec. 9.6C & 9.7. Owner: T. & K. Staubs. File: 22-11-ZV.

26 2. Variance from Sec. 9.7. Owner: B. King. File: 22-12-ZV.

27 3. Request for a CUP. Owner: J. Staubs. Applicant: Naille. File: 22-2-CUP.

28 4. Request for a CUP. Owner: T. & A. Fridley. File: 22-3-CUP.

29 5. Variance from Sec. 9.7. Owner: C. Ramey. File: 22-14-ZV

30 6. Variance from Appendix A. Owner: K. Petry. File: 22-15-ZV.

31 7. Variance from Sec. 4.11E. Owner: G. Chicchirichi. Applicant: Sheetz. File: 22-16-ZV.

32 Mr. Quynn was provided a copy of the draft Findings for review. Mr. Quynn stated he  
33 would return the signed findings to the office.

34 Ms. Catterton moved to adjourn the meeting at 3:43 pm. Mr. Quynn called for a vote, which carried  
35 unanimously.